

I don't really have an opinion—pro or con—on the idea of POS fee disclosures. Since most debit card fees are associated with online (PIN-based) debit, disclosure at the point of sale would probably encourage more cardholders to opt for offline (signature-based) debit. But this would tend to increase costs for merchants, and because the settlement in the “Wal-Mart case” allows merchants to refuse to accept offline debit, they would be more likely to begin doing so.

The problem, though, is that merchants have devised point-of-sale devices, practices and procedures *to prevent debit cardholders from even knowing that there is such a thing as offline debit.*

Instead of adding new fee disclosure requirements, I think the Federal Reserve Board should work on clarifying the existing provisions of the receipt requirement of 12 C.F.R. § 205.9(a), because that would go a long way toward eradicating deceptive merchant practices that distort consumers' freedom of choice.

I have a Visa Check Card, and whenever I use it to make purchases “offline” (by signature) I have to press a button that says “Credit.” If I press the “Debit” button, the merchant does not give me the opportunity to choose my debit card processing method. In the warped view of merchants, the word “debit” only means “online debit.” Visa, they maintain, is strictly a credit card network, although this is at odds with the fact that 60% of transactions processed by Visa are debit transactions. If you want to use Visa to process an offline debit transaction, you have to press “Credit.”

This could be really confusing to many cardholders. When using a card with the word “DEBIT” printed on it, and faced with pressing one of two buttons—one labeled “Debit” and the other labeled “Credit”—what is a typical cardholder to think? She is likely to think that pressing the “Credit” button will result in an extension of credit, a credit card bill, and perhaps even interest charges, instead of an electronic fund transfer from her checking account. Visa says on its website (www.visamediacycenter.com/steering_fact.html) that 49% of respondents polled in 2002 were affected by this “debit / credit” confusion.

I think merchants are simply trying to trick people into using online (PIN) debit by calling offline debit “credit.” In this view, the familiar question at the grocery checkout—“Debit or credit?”—is actually an effort to deceive debit cardholders.

Here's where things get legally suspicious. At the conclusion of every offline debit transaction, I am handed a receipt with the words “Credit Card” printed on it. In other words, my receipt carries information incorrectly identifying the method of payment I've used.

I guess it must not be against the law for a business to confuse its customers to save money. But I don't see how printing “Credit Card” on an electronic fund transfer receipt can be squared with the requirement of 12 CFR § 205.9(a)(3).

The Official Staff Commentary acknowledges that “[t]here is no prescribed terminology for identifying a transfer at a merchant's POS terminal.” But I don’t think the phrase “Credit Card” can be understood by the typical debit cardholder as an appropriate designation for an electronic fund transfer from a checking account.

If this rule means anything, it is that merchants must not issue falsified POS electronic fund transfer receipts. But the practice of calling offline debit “credit” is so widespread, it must mean that merchants do not feel that Regulation E applies to them.

This is a real problem, one that I think federal regulators need to address.

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